IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 11629 OF 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge?

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CHANDRAKANTBHAI N. KOTHARI - Petitioner(s)
Versus
AHMEDABAD MUNICIPAL CORPORATION & ANR. - Respondent(s)

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Appearance :
SHRI JITENDRA MALKAN for Petitioner(s).
SHRI ASTHAWADI for SHRI PRASHANT G. DESAI for Respondent(s):1 - 3.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 07/02/2007

ORAL JUDGMENT

1. It appears that the petitioner had obtained construction permission for cellar, ground floor, first floor and second floor, after demolition of the

old existing house. It appears that because of shortage of funds, he could carry out constructions of the cellar and ground floor only, therefore, after stopping the constructions, he asked for an Occupancy Certificate. Ultimately, the matter came to this Court in Special Civil Application No.10014 of 1994. The High Court directed that if the petitioner is not proposing to construct further, then too, he would be entitled to the Occupancy Certificate. The High Court, however, reserved liberty in favour of the petitioner that if he wanted to make further construction within the prescribed period, then, he would be entitled to do so, but, if he wanted to make further constructions after the prescribed period, then, he may have to submit the plans afresh. The High Court also gave a direction to the Corporation to provide water connection and drainage line to the petitioner. After obtaining the Occupancy Certificate, the petitioner made submissions to the Corporation Authorities that the water connection and drainage connection, which he was earlier enjoying, be reconnected. It appears that the authorities were of the view that in view of demolition of the

existing construction, the petitioner was to apply afresh for water and drainage connection; they accordingly raised a demand. The said demand is under challenge before this Court.

2. After hearing the learned Counsel for the parties, I am of the considered opinion that the earlier facilities, which the petitioner was enjoying, would not be now available to him because the earlier construction was totally demolished and a new construction came into being. If that be so, there would be no agreement to reconnect the earlier connection and under the circumstances, the petitioner would be obliged to pay necessary charges for obtaining the facilities.

3. I find no reason to interfere. The petition is dismissed. Rule is discharged. Interim relief, if any, stands vacated. No costs.

[R.S.Garg, J.]

*kamlesh**